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June 29, 2023

Hon. Denise L. Cote
United States District Judge
Southern District of New York

**Re: *Avalon Holdings Corporation v. Gentile*, 18-cv-7291 (DLC)(RWL)
New Concept Energy v. Gentile, 18-cv-8896 (DLC)(RWL)**

Your Honor:

I am one of plaintiffs' counsel in these cases and I write in further response and in opposition to the defense' renewed letter motion for stays.

Supplementing my letters to Your Honor of June 27, 2023, I respectfully inform Your Honor of the filing today by the Securities and Exchange Commission of its *amicus curiae* brief in the pending appeal of *Packer v. Raging Capital Management LLC*, No. 23-367 (2d Cir.).

The SEC is fully supportive of plaintiff's position that *Donoghue v. Bulldog Investors Gen't P'ship*, 696 F.3d 170 (2d Cir. 2012), *cert. denied*, 569 U.S. 994 (2013) remains good and controlling law. Defendant's motion should be denied.

Very truly yours,

David Lopez

Cc: All Counsel of Record via ECF